



House of Commons
European Scrutiny Committee

Twenty-fourth Report of Session 2019–21

Documents considered by the Committee on 8 October 2020

Report, together with formal minutes

*Ordered by the House of Commons
to be printed 8 October 2020*

Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

AFSJ	Area of Freedom Security and Justice
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECA	European Court of Auditors
ECB	European Central Bank
EEAS	European External Action Service
EM	Explanatory Memorandum (submitted by the Government to the Committee) *
EP	European Parliament
EU	European Union
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday, and is also available on the [parliamentary website](#). Documents awaiting consideration by the Committee are listed in "Remaining Business": www.parliament.uk/escom. The website also contains the Committee's Reports.

*Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: <http://europeanmemoranda.cabinetoffice.gov.uk/>.

Staff

The current staff of the Committee are Ravi Abhayaratne (Committee Operations Assistant), Joanne Dee (Deputy Counsel for European Legislation), Alistair Dillon and Leigh Gibson (Clerk Advisers), Nat Ireton and Apostolos Kostoulas (Committee Operations Officers), Luanne Middleton (Second Clerk), Daniel Moeller (Committee Operations Manager), Jessica Mulley (Clerk), Foeke Noppert (Clerk Adviser), Indira Rao (Counsel for European Legislation), Paula Saunderson (Committee Operations Assistant), Sibel Taner (Second Clerk), Emily Unwin (Deputy Counsel for European Legislation) George Wilson (Clerk Adviser), Beatrice Woods (Committee Operations Officer).

Contacts

All correspondence should be addressed to the Clerk of the European Scrutiny Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is (020) 7219 3292/5467. The Committee's email address is escom@parliament.uk.

Contents

Documents to be reported to the House as legally and/or politically important

1	BEIS (HCLG)	Regional policy post-2020	3
2	BEIS	Energy and Hydrogen Policy	6
3	DfT	COVID-19: Flight vouchers	11
4	DIT	Enhancing trade in the Euro-Mediterranean region	13
5	DIT	EU/US mini-tariff deal	17
6	HMT	Green finance: the EU's Sustainable Investment Taxonomy (update)	20
7	HMT	EU budget 2021: possible financial implications for the UK	25

Documents not considered to be legally and/or politically important

8	List of documents		34
---	-------------------	--	----

Annex			35
--------------	--	--	-----------

Formal Minutes			36
-----------------------	--	--	-----------

Standing Order and membership			37
--------------------------------------	--	--	-----------

1 Regional policy post-2020¹

These EU documents are politically important because:

- they relate to future domestic regional policy; and
- they cover a programme in which Northern Ireland at least will participate in the future.

Action

- Write to the Minister as set out below.
- Draw to the attention of: the Housing, Communities and Local Government Committee; the Northern Ireland Affairs Committee; the Welsh Affairs Committee; the Scottish Affairs Committee; and the Committee on the Future Relationship with the EU.

Overview

1.1 Until the end of the post-Brexit Transition Period (31 December 2020), UK projects remain eligible for EU structural funding. From 1 January 2021, the UK will no longer be involved in those funding programmes, with the exception of the PEACE PLUS Programme on the island of Ireland, specifically designed to support cooperation across the Irish border.

1.2 In 2018, the European Commission published various proposals setting out arrangements for EU structural funding over the period 2021–27. Those included a proposed ‘European Territorial Cooperation’ (ETC) Regulation. The PEACE PLUS Programme is part of that Regulation, which has previously also supported other Programmes involving the UK.

1.3 In our [letter](#) of 23 July 2020, we asked the Minister for the Government’s value-for-money assessment underpinning its decision not to pursue continued UK engagement in the ETC Programmes, other than PEACE PLUS. We also welcomed any further details available concerning the Shared Prosperity Fund (SPF)—the domestic replacement for the EU structural funds—as well as information on the progress of negotiations concerning the UK’s participation in PEACE PLUS.

1 (a) Proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument, (b) Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund, (c) Proposal for a Regulation of the European Parliament and of the Council on the European Social Fund Plus (ESF+), (d) Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments; References: (a) [9511/18](#) + ADD 1, COM(18) 375, (b) [9522/18](#) + ADDs 1–2, COM(18) 372, (c) [9573/18](#) + ADDs 1–2 COM(18) 382, (d) [9536/18](#)+ ADD 1, COM(18) 374; Legal base: (a) Articles 177, 322(1) (a) and 349, TFEU (b) Articles 177, 178 and 349, TFEU (c) Articles 46(d), 149, 153(2)(a), 164, 168(5), 175(3) and 349, TFEU (d) Articles 178, 209(1), 212(2) and 349 TFEU, Ordinary legislative procedure, QMV; Departments: Business, Energy and Industrial Strategy, Housing, Communities and Local Government; Devolved Administrations: Consulted; ESC numbers: (a) 39801, (b)39807, (c) 39808, (d) 39811.

1.4 In [reply](#), the Minister for Regional Growth and Local Government (Simon Clarke MP) has told us that it was not possible for the Government to share its value-for-money assessment of the value of future UK participation in various EU funds, including the ETC Programmes. He explains that the assessment relates to the Government’s ongoing policy development and, “in line with normal practice”, the Government is unable to share that work with us.

1.5 The Minister provides no further details on the SPF, noting that final decisions on its design and allocation will be taken in the Spending Review.

1.6 Concerning PEACE PLUS, the Minister recalls that the UK and EU have committed to participation in the future 2021–2027 Programme and says that both sides have reiterated this commitment during negotiating rounds. The EU and UK have had “constructive discussions” on this topic to date, which the Government looks forward to continuing in future rounds.

Our assessment

1.7 The Government’s continued failure to provide any details of, or timetable for, the SPF remains frustrating, and it is one that we know is shared by other Select Committees in the House of Commons. The Housing, Communities and Local Government Committee sought further clarity on this, for example, in a [letter](#) to the Secretary of State (Rt Hon. Robert Jenrick MP) dated 17 September.

1.8 As the European Scrutiny Committee, we believe that we can serve a useful function of assessing the proposed Fund against the current and future EU structural funds. We therefore look forward to seeing the details of the Fund as soon as possible.

1.9 On the UK’s participation in future European Territorial Cooperation Programmes, we also look forward to a substantive update on the details of the UK’s participation in the PEACE PLUS Programme. It is regrettable that the Government is not willing to share with us its analysis of the value for money of wider UK participation in other ETC Programmes. We note that the Devolved Administrations take a different view to that of the UK Government. The Scottish Government has stated:

Notwithstanding the UK Government position, the Devolved Administrations (DAs) have made clear their shared interest in continuing participation in ETC programmes. As a result, Scottish Government officials continue to engage with the other DA officials on priorities for the 2021–27 programmes.²

1.10 We will seek clarity as to whether or not the Government is seeking UK-wide consensus in this area and—if not—why not. We will also suggest that publication of the value-for-money assessment might facilitate that process.

2 European Territorial Cooperation Programmes 2021–27: [consultation report](#), Scottish Government, July 2020.

Action

1.11 We have written to the Minister, as set out below, pursuing our further queries. We have copied our letter to: the Housing, Communities and Local Government Committee; the Northern Ireland Affairs Committee; the Welsh Affairs Committee; the Scottish Affairs Committee; and the Committee on the Future Relationship with the EU.

Letter from the Chair to the Minister for Regional Growth and Local Government (Simon Clarke MP),

We have considered your letter of 3 September.

The continued failure to set out any details of the Shared Prosperity Fund remains a source of frustration, as also reflected in the letter dated 17 September 2020 from the Housing, Communities and Local Government Committee to the Secretary of State (Rt Hon. Robert Jenrick MP). As a Committee, we believe that we can serve a useful function of assessing the proposed Fund against the current and future EU structural funds. We therefore look forward to seeing the details of the Fund as soon as possible.

Turning to future UK involvement in European Territorial Cooperation Programmes, we note that you are unable to share the Government's value-for-money assessment. We are aware that the Devolved Administrations do not share your position on UK participation, taking the contrary view that UK involvement would be beneficial, and we therefore suggest that publication of the assessment might help to secure UK-wide consensus on this matter. It would be helpful to know if you have endeavoured to secure such consensus, what discussions you have had with the Devolved Administrations on this matter and if you have indeed shared your analysis as part of any such discussions.

On PEACE PLUS specifically, we look forward to an update in due course on the outcome, or progress, of negotiations with the EU concerning that Programme.

We request a response within three weeks.

2 Energy and Hydrogen Policy³

These EU documents are politically important because:

- EU policy in this area is of strategic importance to the UK; and
- there are specific policy implications for Northern Ireland due to obligations under the Ireland/Northern Ireland Protocol.

Action

- Write to the Minister.
- Draw to the attention of the Business, Energy and Industrial Strategy Committee, Environmental Audit Committee and the Northern Ireland Affairs Committee.

Overview

2.1 The European Commission published its policy documents on energy system integration and on hydrogen as part of the EU's Green Deal policy. Despite the UK's withdrawal from the EU, the policies set out have potential implications for the UK given some of the obligations under the Northern Ireland Protocol and the ambition to maintain EU-UK cooperation in the areas of energy and research. We considered the Government's initial analysis of the implications for the UK to be insufficient and so wrote to the Minister of State for Business, Energy and Clean Growth (Rt Hon. Kwasi Kwarteng MP) requesting further information on both documents.⁴

2.2 The Minister's [response](#)—covering both documents in the same letter—is summarised below, set out under the respective headings.

Energy Integration Strategy: decarbonisation, energy efficiency and transport

2.3 The UK welcomes the EU ambition on energy system integration which, says the Minister, is consistent with the UK's approach for decarbonising the energy sector as required to meet the UK's 2050 net zero ambitions, whilst maintaining security of supply and low energy costs for consumers. Similarly, an Energy White Paper, to be published this Autumn, will set out the UK's own strategy to drive a green economic recovery and help deliver UK climate goals. This will build on commitments made in the UK's Clean Growth Strategy.

3 (a) Commission Communication—A hydrogen strategy for a climate-neutral Europe, (b) Commission Communication—Powering a climate-neutral economy: An EU Strategy for Energy System Integration; (a) [COM\(20\) 301](#), (b) [COM\(20\) 299](#); Legal base:—; Department: Business, Energy and Industrial Strategy; Devolved Administrations: Consulted; ESC number: (a) 41389, (b) 41390.

4 [Letter](#) from Sir William Cash MP to Rt Hon. Kwasi Kwarteng MP concerning the Hydrogen Strategy, and [letter](#) from Sir William Cash MP to Rt Hon. Kwasi Kwarteng MP concerning the Energy System Integration Strategy.

2.4 The Minister notes that ‘Renovation Wave’ is a central part of the EU’s Strategy, setting out a programme of policies to accelerate the renovation of both public and private buildings. This is aligned with UK ambition on energy efficiency and heat decarbonisation, as illustrated by a number of examples set out in the Minister’s letter.

2.5 The EU’s proposals for electrification of transport in the Integration Strategy also align with the UK approach for road vehicles. The Minister confirms that the Government is engaging with EU Member States on electric vehicles through the UK’s preparatory work in advance of the international climate negotiations next year (‘COP26’).

2.6 The Minister observes that the EU’s Strategy sets out an intention to revise several energy Directives in 2021. Following the end of the transition period, says the Minister, the UK Government will no longer be bound by EU law. However, the Government is seeking to negotiate a future relationship with the EU which will enable the UK and EU to cooperate with EU partners on areas of mutual benefit in the energy field.

Interconnection

2.7 The EU’s target to increase its interconnection levels to at least 15% is welcomed by the UK as, whilst the UK does not have a specific target, the UK is strongly supportive of increased levels of electricity interconnection with the EU, recognising the potential benefits of further interconnection to contribute to energy security, affordability, and decarbonisation objectives for connecting countries.

2.8 The UK is monitoring the development of the EU’s Offshore Renewable Strategy. The large-scale deployment of offshore wind and other offshore renewable technologies, particularly in the North Sea, is a key area of interest to the Government. The UK’s own Offshore Network Review, announced 15 July 2020, will bring together the key stakeholders involved in the timing, siting, design and delivery of offshore wind to consider all aspects of the existing regime and how this influences the design and delivery of transmission infrastructure. The review will also consider the role of multi-purpose interconnectors in meeting net zero through combining offshore wind connections with links to neighbouring markets. This is an area where it will be to the mutual benefit of the UK and the EU to work together to share knowledge and expertise.

Carbon Pricing

2.9 The Commission indicated that a key action to promote a level-playing field across all energy carriers is to provide a more consistent carbon price signal across energy sectors and Member States, including through a possible proposal for the extension of the EU Emissions Trading System to new sectors (by June 2021).

2.10 The UK is committed to carbon pricing and its priority is ensuring that a robust carbon price is in place at the end of the Transition Period. The UK is on track to establish a UK Emissions Trading Scheme (ETS) that will be in place from 1 January 2021. At its start, the UK ETS will cover the same sectors—power, heavy industry and aviation—covered by the EU ETS to allow for smooth transition for businesses. The UK also recognises that there is a case for expanding carbon pricing and will consider the option of expanding the scope of the scheme to the most appropriate sectors in a review of the system due in

2023. As an alternative to a UK ETS, the UK is also consulting on the option of a Carbon Emissions Tax, to “provide maximum insurance” that the UK will have a carbon pricing policy in place in all scenarios.

2.11 The Government is continuing discussions with the EU on carbon pricing and has been clear that the UK is open to considering a link between a UK ETS and the EU ETS, if it is in both sides’ interests.

Hydrogen Strategy

2.12 The Minister says that the EU’s Hydrogen Strategy aligns with the UK’s own strategic approach to developing hydrogen as a decarbonised energy carrier, which the UK will set out in its upcoming Hydrogen Strategy. That is expected in early 2021 in advance of the COP26 international climate negotiations. In particular, the Government agrees with the EU’s “twin-track” approach of scaling up renewable (electrolytic) hydrogen (green hydrogen), while relying in the near term on blue hydrogen—production methods using carbon capture and storage (CCUS).

2.13 The EU Strategy also discusses the need for incentives to drive demand for hydrogen. Potential options include minimum shares or quotas. The Government agrees that developing a business model is crucial to driving investment in, and deployment of, low carbon hydrogen and welcomes the opportunity to engage further with EU partners on the development of such business models.

2.14 The EU Strategy also considers the need to establish standards for defining low carbon hydrogen. The UK is working closely with international partners, including the EU, through the International Partnership for Hydrogen and Fuel Cells in the Economy, and through the Hydrogen Production Analysis Taskforce, which aims to establish an approach and take initial steps to develop a mutually agreed upon methodology for determining the greenhouse gas and other pollutants’ emissions associated with the production of hydrogen.

UK Activity on Hydrogen

2.15 The UK is committed to developing hydrogen as a decarbonised energy carrier, which could play a significant role in a net zero energy system. As the UK develops its own strategy, it is closely following international hydrogen developments and is participating in a range of international fora, including the Clean Energy Ministerial, the International Partnership for Hydrogen for Fuel Cells in the Economy and Mission Innovation. These offer opportunities to discuss other countries’ domestic hydrogen strategies in detail. This contributes to understanding of, for example, respective drivers for interest, levels of ambition, innovation priorities and policy support frameworks which is informing our strategic approach.

Research Cooperation

2.16 The Minister notes that there is a close correlation between the UK and EU’s priorities and plans for research and innovation, both for energy technologies more generally and specifically for hydrogen. The Government therefore anticipates that there will continue to be a close working relationship and wide-ranging collaboration opportunities in the

energy sector between the UK and the EU’s research community, as the UK and EU work towards their respective net zero commitments. This may be through association or engagement as a Third Country with the EU’s Research and Innovation programmes and wider activities.

2.17 For hydrogen, the EU’s Fuel Cells and Hydrogen Joint Undertaking (FCH-JU) is a public-private partnership that supports research, development and demonstration projects for fuel cell and hydrogen applications. The partnership is active in the fields of transport (cars, buses and refuelling infrastructure) and energy (hydrogen production, distribution and energy storage) and is jointly funded by the EU and industry/research partners. UK companies and researchers have been actively engaged with the research and innovation activities it supports, with UK involvement, on average, in 52% of funded projects and an allocation of 21% of the available annual budget each year between 2010 and 2016. For both general energy and FCH-JU projects, there has been a significant reduction in UK involvement and funding allocation since 2017 as future relationship negotiations have continued to create uncertainty for UK / EU collaboration opportunities.

2.18 The UK is also exploring joint working on hydrogen innovation as part of the international Mission Innovation platform, of which the UK and EU are both leading members. The proposed Hydrogen Mission and wider Mission Innovation activities further underline the numerous collaboration opportunities to be explored with our EU and international colleagues in the future.

Engagement as a Third Country

2.19 Turning to future UK-EU engagement on the further development of these policies, the Minister confirms that the UK will be engaging with the EU through normal diplomatic channels. Through the FCDO Prosperity Fund Programme, the UK is seeking to engage with EU Member States on UK and EU priorities for Offshore Wind and Gas Decarbonisation.

2.20 Finally, the Minister notes that the UK and EU are currently negotiating a future energy agreement, to cover efficient trading over UK-EU interconnectors as well as broader energy cooperation, carbon pricing and climate change. Good progress has been made in the negotiations to date, says the Minister. Any agreed deal will dictate the UK’s relationship with the EU and will hopefully, says the Minister, facilitate future cooperation on energy integration and decarbonisation.

Our assessment

2.21 The Minister’s response is comprehensive. We accept that the Minister’s response in several areas was necessarily conditional on the outcome of UK-EU future relationship negotiations, notably in the areas of energy cooperation, carbon pricing and research. The response did not, though, address one of our key areas of interest which is the interaction between the policies set out in the Strategies and the UK’s ongoing obligations under the NI Protocol. While we accept that the precise regulatory implications cannot be discerned at this stage, it is nevertheless possible to identify the areas which might be affected. We will therefore request that additional information from the Minister.

2.22 A further area of the Hydrogen Strategy on which we did not request analysis from the Government initially concerns the Commission’s intended work on gas quality, mindful of the inherent cross-border difficulties with blending different levels of hydrogen into natural gas. We anticipate that this issue of quality and interoperability is one in which the UK will need to be engaged if gases are to continue to flow unhindered between the UK and the EU.

Action

2.23 We have written to the Minister as set out in the attached letter. We are drawing the Minister’s response—and our follow-up letter—to the attention of the Business, Energy and Industrial Strategy Committee, the Northern Ireland Affairs Committee and the Environmental Audit Committee.

Letter to the Minister of State for Business, Energy and Clean Growth (Rt Hon. Kwasi Kwarteng MP)

We have considered your letter of 24 September on the above documents.

For the most part, we found your letter to be helpful and informative. The one area on which we had requested further information, and on which you have not commented, is the interaction between the policies set out in these Strategies and the UK’s ongoing obligations under the Northern Ireland Protocol.

In our Report of 16 September,⁵ we observed that the Strategy suggests changes to a number of legislative acts to which Northern Ireland remains bound—at least in part—under the terms of the Ireland/Northern Ireland Protocol, including the Industrial Emissions Directive, the Energy Taxation Directive, the Emissions Trading System Directive, the Regulations on emissions from new cars and vans, as well as the EU’s state aid framework and requirements related to the Irish Single Energy Market (I-SEM).

It would be helpful if you could signal whether you agree with our analysis and identify any other areas of potential regulatory change covered in the Strategies and falling within the scope of the Protocol.

In addition, we note that the Commission plans work on gas quality, mindful of the inherent cross-border difficulties with blending different levels of hydrogen into natural gas. We anticipate that this issue of quality and interoperability is one in which the UK will need to be engaged if gases are to continue to flow unhindered between the UK and the EU and would welcome your view on this matter.

We look forward to a response within ten working days.

3 COVID-19: Flight vouchers⁶

This EU document is politically important because:

- it concerns the EU's response to the COVID-19 pandemic; and
- raises questions regarding the Government's approach to insuring vouchers offered by airlines for directly-booked flights cancelled due to the pandemic.

Action

- Draw to the attention of the Transport Committee.

Overview

3.1 The Committee last considered the [document under scrutiny](#) in its Nineteenth Report of Session 2019–21.⁷ The document, a Commission Recommendation, is directed at Member States and makes a number of suggestions for how travel vouchers—offered by operators in light of COVID-19 service cancellations—can be made more attractive and useful for passengers and travellers.

3.2 The Recommendation was published without prejudice to the rights of consumers under EU law and was intended to mitigate the impacts of the COVID-19 crisis for operators by limiting the demand for refunds, thus aiding short-term liquidity.⁸

3.3 The Recommendation recognised that if, due to current difficulties, operators became insolvent, passengers and travellers may not receive refunds due to some vouchers not being protected. As such, it suggested Member States consider indemnifying vouchers through their own domestic protection schemes.

3.4 In its [Explanatory Memorandum](#) on the Recommendation (of 1 June 2020), the Government was clear that it would not act on the Commission's advice and introduce insolvency protection for vouchers offered for cancelled flights.

3.5 On 18 July 2020, the Government announced that the ATOL scheme would be extended to cover refund credit notes if travel packages are cancelled as a consequence of disruption caused by the COVID-19 pandemic. The Government did not, however, specify whether vouchers issued for cancelled flights booked directly with operators—and not as part of a holiday package—would be covered.

3.6 We subsequently wrote to the Minister requesting clarification on whether the Government's 18 July announcement included vouchers for flights booked directly with operators and, if it does not, a full explanation as to why.

6 Commission Recommendation (EU) 2020/648 of 13 May 2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic; Council and COM number: COM(20) 3125; Legal base: 292 TFEU; Dept: Transport; Devolved Administrations: Consulted; ESC number: 41255.

7 Nineteenth Report HC-299–xv (2019–21), [Chapter 4](#) (3 September 2020)

8 As an example, for air travel in the EU, the right to choose between a full cash refund or re-routing as per the Air Passenger Rights Regulation. See [Regulation \(EC\) No 261/2004](#) of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance)

Letter from the Minister (Rachel Maclean MP)

3.7 The Minister responded to our request for further information on 21 September 2020. The Minister’s response rehearses the details of the ATOL scheme before confirming that vouchers for cancelled flights booked directly with operators will not be covered. Despite our request, the reasoning behind this decision is not provided.

Conclusions

3.8 We welcome the Government’s extension of the ATOL scheme but are disappointed that measures have not been put in place to cover vouchers offered for cancelled flights booked directly with operators. We are of the firm opinion that the extension of the ATOL scheme to directly booked flights would provide welcome peace of mind for passengers travelling during the present uncertainty.

Action

3.9 This chapter has been drawn to the attention of the Transport Committee.

4 Enhancing trade in the Euro-Mediterranean region⁹

These EU documents are politically important because:

- they seek to update and simplify the rules of origin applicable to goods traded between countries which participate in the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (‘the PEM Convention’);
- the Government has not yet decided whether the UK should seek to participate in the PEM Convention in its own right when the post-exit transition period ends on 31 December 2020; and
- the documents are relevant to the application and operation of the Protocol on Ireland/Northern Ireland.

Action

- Write to the Parliamentary Under-Secretary of State (Ranil Jayawardena MP) at the Department for International Trade requesting further information on the factors informing UK participation in the PEM Convention after transition and the legal and practical implications of applying the PEM Convention itself, or the updated rules of origin with some PEM countries, in one part of the UK customs territory (Northern Ireland) but not the rest.
- Draw to the attention of the International Trade Committee, the Northern Ireland Affairs Committee, and the Committee on the Future Relationship with the EU.

Overview

4.1 The [Regional Convention on pan-Euro-Mediterranean preferential rules of origin](#) (the ‘PEM Convention’) establishes a single set of rules of origin and a system of cumulation which the parties to the Convention—the EU on behalf of its 27 Member States and a further 25 countries in the Euro-Mediterranean region—are expected to apply as part of their free trade agreements with one another.¹⁰ Rules of origin establish the ‘economic nationality’ of a product. They are used to determine how much local content is needed for a product to qualify for preferential market access under a trade agreement. Cumulation makes it easier to qualify by allowing goods which include components from different

9 Proposal for a series of Council Decisions to amend the EU’s bilateral agreements with Serbia, Switzerland, Egypt, Turkey, Faroe Islands, Ukraine, Moldova, Iceland, Kosovo, Israel, Norway, Montenegro, Palestine, Albania, Georgia, Jordan, North Macedonia, Bosnia and Herzegovina, and Lebanon with regard to the Pan-Euro-Mediterranean (PEM) Convention and the definition of originating products and methods of administrative cooperation provided for in the respective protocols to each of these agreements; Council numbers—; COM(20) 389–98, COM(20) 406, COM(20) 412–19 and COM(20) 425–6; Legal base: Articles 207(4) and 218(9) TFEU, QMV; Department for International Trade; Devolved Administrations informed; ESC numbers 41480–41500.

10 The non-EU participating countries are Iceland, Liechtenstein, Norway, Switzerland, Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria, Tunisia, Turkey, Albania, Bosnia and Herzegovina, Croatia, North Macedonia, Montenegro, Serbia, Kosovo, the Faroe Islands, Moldova, Georgia and Ukraine.

countries operating within a regional supply chain to qualify for preferential access.¹¹ The application of a single set of rules is intended to stimulate trade between the parties to the Convention and simplify the process for updating the rules to take account of changes in trading conditions.

4.2 Changes to the PEM Convention must be agreed unanimously by a Joint Committee in which each of the parties to the Convention is represented. As the PEM Convention falls within the scope of the EU’s common commercial policy and is an area in which the EU has exclusive or sole competence to act, the EU is represented by the European Commission. Earlier this year, we examined a [proposal for a Council Decision](#) which set out changes to the PEM Convention’s rules of origin which the EU hoped the Joint Committee would agree. The changes were intended to update and simplify the rules, making them easier to apply and more flexible for economic operators. While most parties to the PEM Convention supported them, some objected, making it impossible to secure the unanimity needed to amend the Convention. The European Commission indicated that it would therefore seek to agree the changes on a bilateral basis with other interested parties to the PEM Convention.¹²

4.3 The Commission has now proposed a series of Council Decisions to amend the rules of origin and associated administrative procedures in the EU’s bilateral agreements with 19 of its trading partners who are also parties to the PEM Convention.¹³ The use of these ‘alternative’ rules of origin is optional—economic operators can themselves decide whether they wish to apply the new rules or to stick with the PEM Convention rules.¹⁴ They are intended to be applied provisionally while efforts continue to amend the Convention so that a single set of origin rules applies across the entire PEM regime. The proposed Council Decisions include a provision ensuring that any future amendments to the PEM Convention apply on a dynamic basis, without the need for further Decisions to incorporate them in each of the relevant bilateral agreements.

4.4 As we have explained in our earlier Reports, the UK remains bound by the PEM Convention until the post-exit transition period ends on 31 December 2020 and supports the changes proposed by the EU. After transition, the PEM Convention will cease to apply unless the UK seeks to join as a separate Contracting Party. The Government has said that any decision to become a party to the PEM Convention would be made “in the light of ongoing discussions on the future relationship with the EU as well as future bilateral relationships with other Contracting Parties and third countries that are not Contracting Parties to the PEM Convention”.¹⁵

11 The PEM Convention allows for “diagonal cumulation” of rules of origin for Contracting parties that have concluded free trade agreements with one another. This makes it possible for inputs from several free trade partners to be used in the manufacture of a product and for that product to satisfy rules of origin requirements and qualify for preferential treatment.

12 For further details, see our Fourth Report HC 229–ii (2019–21) [chapter 9](#) (23 April 2020) and our Ninth Report HC 229–vi (2019–21) [chapter 3](#) (21 May 2020).

13 There are 21 proposals covering 19 countries: Iceland, Norway, Switzerland and Liechtenstein, Faroe Islands, Turkey, Egypt, Israel, Jordan, Lebanon, Palestine, Georgia, Moldova, Ukraine, Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, Serbia and Kosovo.

14 See p.2 of the [Commission’s explanatory memorandum](#) accompanying the proposed Council Decision concerning changes to the EU/Serbia Stabilisation and Association Agreement.

15 See paragraph 28 of the [Explanatory Memorandum](#) submitted by the then Minister for Trade Policy (Conor Burns MP) on the proposed Council Decision setting out the EU’s position on changes to the PEM Convention.

4.5 In his [Explanatory Memorandum of 17 September 2020](#) on the latest set of proposed Council Decisions, the Parliamentary Under-Secretary at the Department for International Trade (Ranil Jayawardena MP) notes that the UK will only be able to trade with PEM partners under the alternative rules if the changes proposed are formally agreed and take effect in the EU and each PEM partner country before the end of the transition period. The Government has not yet decided whether to accede to the Convention so that it continues to apply in the UK from 1 January 2021.

4.6 The Minister reiterates the Government’s support for the EU’s efforts to amend the PEM Convention and to “align and simplify the rules of origin used within free trade agreements”. He adds:

We are continuing to agree bilateral FTAs with continuity partner countries, including those that we currently trade with under PEM and have successfully rolled over agreements with PEM signatories, including Switzerland, Liechtenstein, the Faroe Islands, Israel, the Palestinian Authority, Jordan, Kosovo, Morocco and Lebanon. As FTA negotiations with other PEM signatories are ongoing, we are unable to comment fully on the state of these negotiations.

Our analysis

4.7 The rules of origin changes to a number of the EU’s bilateral trade agreements with PEM partner countries which are set out in the proposed Council Decisions would replicate those we considered earlier in the year when examining proposed changes to the PEM Convention itself. We indicated then that we had no further questions on the substance of the changes proposed but underlined our keen interest in the Convention itself and the factors which would inform the Government’s decision on UK participation. We asked the Government (in May) to provide us with a summary of the analysis and consultation it was undertaking, once completed, as well as the factors informing its decision on UK participation in the PEM Convention.

4.8 One factor influencing the Government’s decision may be the special position of Northern Ireland under the [Protocol on Ireland/Northern Ireland](#) which forms an integral part of the EU/UK Withdrawal Agreement. The Minister affirms in his Explanatory Memorandum that the proposed Council Decisions “affect the substance of EU law that will remain in effect under the Northern Ireland Protocol”. This is because the Protocol provides: “Obligations stemming from the international agreements concluded by the Union, or by Member States acting on its behalf, or by the Union and its Member States acting jointly, insofar as they relate to trade in goods between the Union and third countries” will apply “to and in the United Kingdom in respect of Northern Ireland”.¹⁶ The Minister does not, however, clarify the legal and practical implications of applying the PEM Convention itself, or the updated rules of origin with some PEM countries, in one part of the UK customs territory (Northern Ireland) but not the rest.

16 See Article 5(4) of the Protocol and Annex 2, point 4, final indent.

Action

4.9 We ask the Minister to:

- inform us of the outcome of the analysis the Government is undertaking on the merits of UK participation in the PEM Convention after transition and the factors informing any decision to seek to accede to the Convention;
- explain how that decision may be affected by the obligations accepted by the UK under the EU/UK Withdrawal Agreement, specifically the Protocol on Ireland/Northern Ireland; and
- clarify the legal and practical implications of applying the PEM Convention itself, or the updated rules of origin with some PEM countries, in one part of the UK customs territory (Northern Ireland) but not the rest.

Letter to the Parliamentary Under-Secretary of State (Ranil Jayawardena MP), Department for International Trade

The European Scrutiny Committee has considered your [Explanatory Memorandum of 17 September 2020](#) on proposals for a series of Council Decisions to amend the rules of origin and associated administrative procedures in the EU’s bilateral agreements with 19 of its trading partners who are also parties to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (“the PEM Convention”).

The changes proposed replicate those we considered earlier in the year when examining a separate Council Decision to amend the PEM Convention itself.¹⁷ As we indicated then, we are content with the substance of the changes proposed but maintain a keen interest in the Convention itself and the EU’s efforts to align and simplify rules of origin in its bilateral agreements with trading partners.

In May, the Government informed us that it intended to take a decision on UK participation in the PEM Convention “later this year”, once it had concluded “the wide range of analysis currently being undertaken”, and said that it was considering “a wide range of factors [...] including the importance of global supply chains which involve third countries that do not participate in the Convention”.¹⁸

As there are now only three months until the end of the post-exit transition period and the process for acceding to the PEM Convention is likely to take some time, we reiterate our earlier request for details of the outcome of your analysis and the factors informing the Government’s decision on participation.

You recognise in your Explanatory Memorandum that the proposed Council Decisions would “affect the substance of EU law that will remain in effect under the Northern Ireland Protocol”. We ask you to clarify the legal and practical implications of applying the PEM Convention itself, or the updated rules of origin agreed with some PEM countries, in one part of the UK customs territory (Northern Ireland) but not the rest.

We look forward to receiving your response by the end of October.

17 See our Fourth Report HC 229–ii (2019–21) [chapter 9](#) (23 April 2020) and our Ninth Report HC 229–vi (2019–21) [chapter 3](#) (21 May 2020).

18 See the [letter of 5 May 2020](#) from the Minister for Trade Policy (Rt Hon. Greg Hands MP).

5 EU/US mini-tariff deal¹⁹

This proposal for a Regulation is legally and politically important because:

- it concerns an area of trade (the import of lobster products) in which UK tariffs may be higher than the EU's when the post-exit transition period ends on 31 December 2020; and
- it is relevant to the Protocol on Ireland/Northern Ireland.

Action

- Write to the Minister for Trade Policy (Rt Hon. Greg Hands MP) requesting (i) an update on UK trade negotiations with Canada and the US and the prospects for reaching a similar 'zero tariff' mini-deal by the end of 2020, and (ii) further information on the legal basis for applying the Regulation in Northern Ireland at the end of the transition period.
- Draw to the attention of the International Trade Committee and the Northern Ireland Affairs Committee.

Overview

5.1 On 21 August 2020, the EU and US [announced](#) a package of tariff reductions²⁰—the first in more than two decades—to boost transatlantic trade and improve bilateral trade relations which have been strained by a series of disputes and tensions within the World Trade Organisation (WTO). The [proposed Regulation](#) would implement the EU's part of the mini-tariff deal agreed with the US, removing tariffs on US exports of four types of lobster products for a five-year period starting on 1 August 2020. For its part, the US has agreed to halve its tariffs on EU exports of certain prepared meals, crystal glassware, surface preparations, propellant powders, cigarette lighters and lighter parts.²¹ The US tariff reductions will also be retroactive, starting from 1 August 2020. Both sets of reductions are to be implemented on a most favoured nation (MFN) basis in compliance with WTO rules. The products covered by the agreement account for around €168 million (\$200 million) in EU and US exports.²²

5.2 In his [Explanatory Memorandum of 23 September 2020](#), the Minister for Trade Policy (Rt Hon. Greg Hands MP) confirms that the Regulation (once adopted) will apply to the UK from 1 August 2020 until the post-exit transition period ends on 31 December 2020. During this period, the UK will continue to apply the EU's Common External Tariff (CET), including the elimination of tariffs on lobster products agreed by the EU and US.

5.3 This will change from 1 January 2021, when the Regulation and the EU's Common External Tariff will cease to apply in the UK. The [UK's Global Tariff \(UKGT\)](#) (published in May 2020) sets tariffs of between 6–16% on the lobster products covered by the EU/

19 Proposal for a Regulation on the elimination of customs duties on certain products; Council document—; COM(20) 496; Legal base—Article 207(2) TFEU, ordinary legislative procedure, QMV; Department for International Trade; Devolved Administrations—consulted; ESC number 41510.

20 See the Joint Statement of the United States and the European Union on a Tariff Agreement, 21 August 2020.

21 The tariff reductions are set out in the [Annex](#) to the proposed Regulation.

22 €42 million of EU27 imports from the US and €126 million of US imports from the EU (2019 data).

US deal. These are the same as the tariffs which were applicable under the EU’s Common External Tariff before the EU and US agreed the tariff reductions. While the UK’s own (higher) tariff rates, not the reductions negotiated by the EU and US, will therefore apply from the beginning of 2021, the zero tariff rate will continue to apply to lobster products entering Northern Ireland from outside the EU that are considered to be “at risk of subsequently being moved” into the EU. This is because EU customs laws (including the proposed Regulation) and duties apply to these so-called “at risk goods” under the terms of the Protocol on Ireland/Northern Ireland which forms part of the [EU/UK Withdrawal Agreement](#).²³

5.4 Assessing the trade impact of the EU/US mini-tariff deal, the Minister observes:

The US and Canada are the main exporters of lobster to the EU. Canada currently has zero-duty access into the United Kingdom via the EU-Canada Comprehensive Economic and Trade Agreement (CETA), which the UK aims to roll over after the Transition Period. The US, however, pays the CET rates and so this deal will improve their market access into the EU (and the United Kingdom during the Transition Period).

5.5 He reiterates the Government’s aim of agreeing a “zero tariff and zero quota” Free Trade Agreement with the EU by December 2020. This would ensure duty free access to the EU market for UK exporters of lobster products.

Action

5.6 Write to the Minister requesting (i) an update on UK trade negotiations with Canada and the US and the prospects for reaching a similar deal eliminating tariffs on lobster products before the end of the year, and (ii) further information on the legal basis for applying the Regulation in Northern Ireland at the end of the transition period.

Letter to the Minister for Trade Policy (Rt Hon. Greg Hands MP), Department for International Trade

Thank you for your [Explanatory Memorandum of 23 September 2020](#) on a [proposed Regulation](#) which would implement the EU’s part of the [mini-tariff deal](#) agreed with the US in August, eliminating tariffs on US exports of four types of lobster product for a five-year period starting on 1 August 2020.

You explain that the US and Canada are the main exporters of lobster to the EU. The EU/Canada Comprehensive Economic and Trade Agreement (CETA) has already eliminated tariffs on the export of lobster products to the EU and the EU/US mini-tariff deal will have the same (retroactive) effect from 1 August 2020. Under the provisions of the EU/UK Withdrawal Agreement, the trade concessions agreed by the EU with Canada and the US apply to the UK until the end of the post-transition period (31 December 2020). From 1 January 2021, the [UK’s Global Tariff \(“UKGT”\)](#) will apply, setting tariffs of between 6–16% on the lobster products covered by CETA and the EU/US deal.

You say that the Government aims to “roll over” the CETA agreement so that its provisions continue to apply to the UK after transition. We would welcome an update on

23 See Article 5(2) of the Protocol.

the prospects for reaching a continuity agreement with Canada by the end of the year, as well as a progress report on the UK/US Free Trade Agreement negotiations and your assessment of the potential to agree a “mini deal” similar to that secured by the EU to enable duty free access to continue beyond the end of the year.

We note that the Regulation (if adopted) will continue to apply to lobster products imported into Northern Ireland that are “at risk of subsequently being moved” into the EU. This is because EU customs laws and duties will continue to apply to these so-called “at risk goods” under the terms of the Protocol on Ireland/Northern Ireland. We ask you to clarify whether the Regulation will apply automatically, under Article 5(3) of the Protocol (as a measure implementing or supplementing the Union Customs Code), or will need to be added to one of the Annexes to the Protocol by means of a Joint Committee decision under Article 13(4) of the Protocol.

We look forward to receiving your response within ten working days.

6 Green finance: the EU’s Sustainable Investment Taxonomy (update)²⁴

This EU document is legally and politically important because:

- it creates a new EU framework for the assessment of the environmental sustainability of any given economic activity. From the Treasury’s [latest update](#), it is still unclear how the Government intends the Taxonomy to operate under domestic law beyond the end of the post-Brexit transition period at the end of 2020.

Action

- The Committee intends to consider the implications of the Taxonomy further in light of any Statutory Instruments introduced by the Government to amend the legal framework as it operates under UK law.
- Draw the information the Treasury has provided on the UK’s implementation of the Taxonomy to the Environmental Audit Committee and the Treasury Committee.

Overview

6.1 In April 2020, the EU agreed a [Sustainable Investment Taxonomy](#) Regulation,²⁵ a new statutory classification system that will be used by European financial institutions, investors and regulators to determine whether a particular economic activity contributes substantially to one of six high-level environmental objectives, such as climate change adaptation or pollution prevention²⁶ (to establish, in turn, the degree to which investment in that activity could be considered sustainable and conducive to that objective, as an aid to environmentally-conscious investors).²⁷ It is part of the EU’s wider [Sustainable Finance Action Plan](#).

6.2 As we set out in our Reports of [6 May](#) and [1 July 2020](#), the core features of the new Regulation require the 27 EU Member States to use the Taxonomy as and when legislating

24 Proposal for a Regulation on the establishment of a framework to facilitate sustainable investment; Council and COM number: 9355/18 + ADDs 1–2, COM(18) 353; Legal base: Article 114 TFEU; Department: HM Treasury; Devolved Administrations not consulted; ESC number: 39806.

25 The Taxonomy is part of a larger package of EU measures—the [Green Finance](#) package—that aim to ensure the financial services industry plays its part in the fight against climate change. The overall aim of the proposals is to channel more investment into sustainable activities by incorporating ‘Environmental, Social and Governance’ (ESG) considerations into investment industry practices. The Commission argues this would benefit the environment and lead to more sustainable economic growth (as well as being in the industry’s own interest by reducing insurance claims related to environmental damage and ensuring the viability of long-term investments). The Regulation was formally approved by the Member States in the Council on 15 April 2020 and by the European Parliament on 17 June 2020, and published in the Official Journal of the EU on 22 June 2020 as Regulation 2020/852.

26 The six environmental objectives for which the Sustainability Taxonomy sets criteria to determine whether an economic activity is of benefit are: climate change adaptation and mitigation; sustainable use and protection of water and marine resources; the transition to a circular economy; pollution prevention and control; and the protection and restoration of biodiversity and ecosystems.

27 More concretely, to be classified as ‘sustainable’ under the Taxonomy, an economic activity will have to “contribute substantially” to one of the environmental objectives; avoid any “significant harm” to the environmental objectives; and meet certain “minimum social safeguards” in the form of ILO Conventions.

for “any measures setting out requirements [for] [...] financial products or corporate bonds that are made available as ‘environmentally sustainable’”, for example when introducing a statutory ‘[green bond](#)’ label.²⁸ In addition, it will require financial companies that sell investment products in the EU to either make regular disclosures to investors about the extent to which their products can be considered ‘sustainable’ under the terms established by the Taxonomy, or include a disclaimer that a particular investment product does “not take into account the EU criteria for environmentally sustainable investments”.

6.3 The European Commission is due to publish the first detailed screening criteria that will be used to determine whether an economy activity contributes to one of the six high-level environmental objectives, in stages, from December 2020. The obligations on Member States and financial market participants as described above will only take effect from January 2022 onwards, when those technical rules are in place. Until that time, the practical effect of the Regulation is unclear.

6.4 More generally, given the UK’s withdrawal from the EU, there is uncertainty about the application of the Taxonomy under UK law. In spring 2020, we asked the Treasury to clarify if the Government would take the EU’s new system for classifying investments by sustainability as a model for a future UK approach after the transition period ends. In his [reply of 28 May 2020](#), the Economic Secretary to the Treasury (John Glen MP) clarified that the requirement for any statutory green finance schemes to take into account Taxonomy’s six high-level environmental objectives, and how those are defined—would apply from July 2020. Because of the provisions of the European Union (Withdrawal) Act 2018, he said this “effectively means that the UK will retain the framework for the taxonomy” in its domestic law at the end of the transition period.²⁹ However, as noted, the disclosure obligations for financial market participants, which are only due to take effect from 2022, will not form part of retained EU law when the transition ends. Similarly, the requirement to apply taxonomy to statutory labels will only be effective from that point. Therefore, the practical effect of the elements of the Regulation that will form part of retained EU law when the transition period ends appears to be very limited.

6.5 As regards the broader policy choice of whether to retain the general Taxonomy under UK law in the longer term to provide a framework for both green finance labels and disclosure requirements, the Minister added that before the detailed implementation of the EU’s new framework—the detailed screening criteria to determine to what extent an economic activity contributes to one of the high-level environmental objectives—is made public by the European Commission, the Government “cannot comment at this stage on the extent to which we [the UK] will align with the EU after the [transition] period” (our emphasis).³⁰ In our subsequent Report in July 2020 we noted that:

28 The European Commission [launched a consultation](#) on an EU-level framework for green bonds in June 2020. If this results in European legislation it would have to comply with the Taxonomy Regulation.

29 Under [section 8](#) of the 2018 Act, the Government can use Statutory Instruments to correct “deficiencies” in the Taxonomy that will remain part of UK law. While the Minister notes the Treasury intends to use this power to “ensure it is fully operable from the end of the [transition] period”, he did not clarify which actual changes to the Regulation are foreseen in this regard, especially with respect to the establishment of the detailed screening criteria for each of the six environmental objectives set out in the Taxonomy.

30 In our Report of 30 April 2020, we had asked the Minister only “to clarify whether [it] is considering establishing a similar legally-binding Sustainability Taxonomy domestically for investment products”. We did not raise the possibility of alignment.

- The Minister’s letter was ambiguous as to whether the Government intends to maintain the Sustainability Taxonomy as a statutory mechanism beyond the end of the transition period, only mentioning the possibility of retaining it based, in part, on the European Commission’s forthcoming detailed screening criteria.
- There could be a potential link between the Government’s apparent consideration of remaining aligned with the EU’s Sustainability Taxonomy for investments and its discussions on future market access into the EU for the UK’s financial services sector under “equivalence” arrangements, where similar regulatory approaches might make it easier for British financial services firms to continue operating in the EU after the UK leaves the Single Market.³¹
- The Commission’s forthcoming proposals for the technical implementation of the Taxonomy, while potentially useful, were not a precondition for the Government deciding whether to maintain the general Taxonomy under UK law because they are not due to become operational until 2022, well beyond the end of the transition period.³²
- While the 2018 Act grants powers to the Government to correct “deficiencies” in retained EU law by means of regulations, we questioned whether it could use this to completely repeal the Sustainability Taxonomy, given that—in the words of the Act—it is not clear that it has no “practical application in relation to the United Kingdom [...] or is otherwise redundant or substantially redundant”.
- If the Taxonomy is maintained, the Government will need to make proposals to modify the process for establishing the aforementioned “detailed screening criteria” for the Taxonomy to the UK’s situation after the end of the transition period, and Parliament’s role in that regard. The procedure foreseen by the EU Regulation involves EU institutions that will no longer have any legislative powers with respect to the UK in the area of financial services.³³ It could also adopt a different timetable for the implementation of the Taxonomy compared to the EU.

6.6 We therefore wrote to the Minister to seek clarification on the nature of the ‘alignment’ under consideration, and in particular whether the issue of the UK operating

31 Equivalence arrangements for financial services, which we discussed in more detail in our Reports of [1 April](#) and [20 May 2020](#), under which the Government is seeking preferential market access into the EU for Britain’s financial services exports after the UK leaves the Single Market. It is not clear if the EU is seeking commitments from the Government that it will retain a version of the Taxonomy under its domestic law, in return for such ‘equivalence’ for the British asset management and investment services industries (nor how any such commitment would be compatible with the [Government’s own insistence](#) that the UK “will not agree to any obligations for our laws to be aligned with the EU’s”).

32 The European Commission’s detailed rules for implementation of the new green screening process are not due to apply from early 2022 at the earliest, well beyond the scheduled end of the transition period. It is therefore entirely possible for the Treasury to instead work on its own screening criteria to complement the Regulation as retained EU law, if the Government intends to keep the Taxonomy on the UK statute book. We concluded: “The European Commission’s proposals in this regard may be relevant or helpful, but they are not a precondition for such a policy choice”.

33 In particular, under the EU Taxonomy Regulation, those crucial technical rules would be set by the European Commission, but subject to a veto by either the European Parliament or by a qualified majority of EU Member States in the Council. What process the Government foresees for the establishment of the UK’s own sustainability screening criteria (if, indeed, it intends to retain the Taxonomy in the longer term), including any role for Parliament and the [proposed new Office for Environmental Protection](#), or some other independent body, is unclear.

something akin to the Taxonomy has been raised, or is likely to be raised, in the context of discussions with the EU on ‘equivalence’ for financial services. We also asked the Minister to alert us when the Government has decided its policy with respect to the future of the Taxonomy, and lays any Statutory Instrument to amend the Taxonomy as it applies under UK law beyond the end of the transition.

The Government’s position

6.7 The Minister [replied](#) to our latest queries on 29 September 2020. His letter failed to provide meaningful answers to our questions. While noting that the UK played “a leading role” in the development of the Taxonomy, which would help ensure “a globally consistent and ambitious approach to sustainable finance”, he provides no further substantive information on the Government’s intentions with respect to its functioning under UK domestic law beyond the end of the transition period.

6.8 The Minister only confirms that the Government “will be on-shoring the taxonomy framework as part of our obligations under the EU Withdrawal Act [...] and intends to lay a statutory instrument to make the appropriate amendments to the regulation to ensure it operates in UK law”. The Government, he says, is “committed to matching the ambition” of the EU’s Sustainable Finance Action Plan, including the Taxonomy, “but will also ensure that any standards we adopt are appropriate for the UK”. The Government will set out further details on its approach to Green Finance standards beyond the transitional period in due course.

6.9 The Minister does not refer to the potential ‘alignment’ with the EU Taxonomy (based on the European Commission’s forthcoming detailed screening criteria in the longer term) in his latest letter, as he had done in his previous correspondence with us.

Action

6.10 As noted, it remains unclear what the effect of the EU Taxonomy Regulation under UK domestic law will be from 1 January 2021, given that the key operative parts—the obligation to apply the Taxonomy to any statutory green finance labelling schemes, and the disclosure requirement for financial market participants—will not be retained as UK law because they are not in effect when the transition period ends.

6.11 In addition, while the Minister has confirmed that the Government intends to lay a Statutory Instrument to “make the appropriate amendments to the regulation to ensure it operates in UK law”, he has not shared any further information on the Treasury’s preferred approach.

6.12 It follows that it is not possible at this stage to determine how the EU’s Sustainable Investment Taxonomy might be applied to statutory green finance” schemes or financial market participants in the UK beyond the end of the post-Brexit transition period.

6.13 Given these uncertainties, the Committee has decided to keep the EU’s Taxonomy Regulation under consideration and to seek further information from the Minister in due course with respect to the practical implications of the elements of the Taxonomy that will form part of retained EU law as amended by any future Statutory Instrument. We remain interested in particular in any obligations this will impose on the Government and

financial market participants. We also intend to follow up with the Minister with respect to the potential for continued alignment” with the EU with respect to classification of sustainable investments over the longer term.

6.14 Given the previous reference to the possibility of UK alignment with the Taxonomy in light of the Commission’s upcoming screening criteria for the different environmental objectives, we will expect the Treasury to deposit the Commission Delegated Acts establishing those criteria—due in December 2020—in Parliament for further scrutiny.

6.15 As we noted in our [Report of 1 July 2020](#), there are also a number of other EU policy initiatives which are linked to the Sustainable Investment Taxonomy, and which may also be relevant for the UK in the future (even if only as a comparator for the Government’s future proposals with respect to green finance). These include a series of European Commission reports planned for 2021 and 2022 that will assess when an activity does not contribute meaningfully to sustainability³⁴ and evaluate the “effectiveness of [...] this [Taxonomy] Regulation in channelling private investments into environmentally sustainable economic activities”.³⁵ The European Commission also recently [concluded a consultation](#) on an EU “green bond” label (which is expected to lead to a proposal for a product label for such investment products, based on the Taxonomy at EU-level, in early 2021).³⁶ The Committee will continue to monitor these related developments and report any relevant implications for the UK to the House, as necessary.³⁷

We draw the Minister’s latest update on the implementation of the EU Sustainable Investment Taxonomy in the UK to the attention of the Environmental Audit Committee and the Treasury Committee.

34 That report will also assess the possibility of introducing more detailed preconditions with respect to social and employment conditions for an activity to qualify as ‘sustainable’.

35 These reviews are also likely to give some Member States an opportunity to push for amendments to the Taxonomy Regulation, given that the legislation is not without its detractors among the remaining 27 EU Member States, with Sweden [voting against](#) while Austria, Bulgaria, Hungary and Poland abstained from the final vote. The legislative process to establish the current version of the Taxonomy already highlighted a number of areas of controversy between the EU’s Member States and the European Parliament. Notably, EU countries were divided on whether energy generation from nuclear power and gas should be considered ‘sustainable’, which has resulted in ambiguities in the legal text. The final Regulation also contains a category of “transitional” activities, which could allow activities otherwise classified as non-sustainable, like for example nuclear energy or steel manufacturing, to be classified as ‘sustainable’ if there is “no technologically and economically feasible low carbon alternative” and the activity “has greenhouse gas emission levels that correspond to the best performance in [its] sector or industry”. The extent to which the Regulation defines sustainability in terms of forestry management was also controversial.

36 In June 2019, the EU’s Technical Expert Group on Sustainable Finance published a [report](#) on an “EU green bond standard”.

37 The Committee will also continue to pursue the broader matter of “equivalence” with the EU on financial services regulation with the Treasury, especially as regards the extent to which that arrangement could require continued UK regulatory alignment with EU financial services rules more generally.

7 EU budget 2021: possible financial implications for the UK³⁸

This EU document is politically important because:

- it sets the EU’s proposed spending plans for 2021, which would determine the UK’s gross contribution to the EU budget next year in return for continued participation that the Government is seeking to negotiate for various EU programmes, including the €80 billion ‘Horizon Europe’ research fund. Such a UK payment could run into billions of pounds per year;
- negotiations between the UK and the EU on the calculation of any such financial contribution as part of a wider participation agreement are on-going, including with respect to a “correction mechanism” proposed by the EU to automatically require the UK to pay more if it became a net beneficiary of an EU funding scheme.

Action

- Draw the potential financial and economic consequences of the EU budget for 2021 to the attention of the Committee on the Future Relationship with the EU, the Public Accounts Committee and—in light of its relevance to the UK’s future participation in EU research programmes—the Business, Energy and Industrial Strategy Committee and the Science and Technology Committee.

Overview

7.1 On 24 June 2020, the European Commission published its [proposal for the EU budget for 2021](#)—known as the “statement of estimates”.³⁹ It foresees EU spending of €166.7 billion (£151 billion) for next year, to be complemented by a further €344 billion from the EU’s planned €750 billion Coronavirus Recovery Fund—some of which would be used to boost EU spending in areas like research, public health, and climate change.⁴⁰

7.2 However, the 2021 EU budget still requires the joint approval of the European Parliament and the Member States in the Council of Ministers, which are currently [locked in protracted discussions](#) about the future of EU spending. A particular difficulty is that 2021 is also the first year of the EU’s next Multiannual Financial Framework (MFF), which sets the EU’s expenditure ceilings across different policy areas, like agricultural subsidies, research funding and regional development, for a 7-year period. Under EU law, the annual

38 [Draft EU budget 2021: statement of estimates](#); EU reference: COM(2020) 300; Legal base: Article 314 TFEU; special legislative procedure; QMV; Department: HM Treasury; Devolved Administrations: Not consulted; ESC number: 41437.

39 The EU financial year runs from 1 January to 31 December.

40 Under the Commission proposal, €133bn of the spending from the Coronavirus Recovery Fund in 2021 would be disbursed to EU countries in the form of repayable loans, with the remainder spent as grants.

budget has to comply with those spending limits and, as such, the budget for 2021 requires the Parliament and Council to agree the MFF first.⁴¹ The EU Coronavirus Recovery Fund, which is legally separate, is also still awaiting formal approval.⁴²

7.3 The UK left the European Union on 31 January 2020. In the Withdrawal Agreement ratified that month, the Government committed to resolve certain budgetary obligations to the EU as part of a financial settlement, which the Treasury [recently estimated](#) will cost the UK taxpayer £32.7 billion over several decades.⁴³ However, that settlement expressly precludes the UK from having to contribute to new EU spending committed after 31 December 2020, meaning the Agreement does not require the Treasury to make any payments towards the proposed EU budget for 2021 or the next MFF.

Continued relevance of the EU budget for the UK

7.4 However, the UK’s withdrawal in and of itself does not necessarily mean that the EU’s budget for future years is no longer of interest to the UK.

7.5 There is, first, a general interest in what the EU finances in terms of its economic and political impact. This is particularly relevant in the context of the COVID-19 crisis, which has led to the establishment of the aforementioned EU Coronavirus Recovery Fund, to be financed via the EU budget using funds borrowed by the European Commission on the capital markets. As we noted in our [Report of 29 July 2020](#), the sheer size of this Fund—and the UK’s economic proximity to the EU—means the degree of success it has in stimulating the EU’s economy is also likely to have macro-economic implications for the UK.

7.6 Of interest is also the creation of a new “Brexit Adjustment Reserve” (BAR), a €5 billion (£4.6 billion) funding pot [agreed by EU leaders in July 2020](#) that would provide financial assistance to EU countries to “counter unforeseen and adverse consequences in Member States and sectors that are worst affected” by the UK’s withdrawal from the EU. Member States have [asked](#) the European Commission to “submit a proposal for the relevant instrument necessary to operationalise the [BAR] without delay, in view of ensuring that a sufficient amount of [funding] can be made available [...] from the beginning of the financial year 2021”.

7.7 There may also be a more direct impact of next year’s EU budget on the Treasury, because of the Government’s decision to seek continued UK participation in various EU funding programmes, primarily related to scientific research, in return for a financial contribution to the running costs of those schemes. This would require a new agreement with the EU, because the Withdrawal Agreement stipulates that the UK’s involvement in European Union programmes will automatically come to an end on 31 December 2020. Any contribution to the EU budget in return for formal participation from 1 January 2021 onwards would be in addition to any costs incurred by the UK under the financial settlement in the Withdrawal Agreement. In return for an annual payment, UK

41 We considered the discussions on the MFF 2021–2027, and its potential implications for the UK, in more detail in our [Report of 29 July 2020](#). If there is no agreement on the next Multiannual Financial Framework by 1 January 2021, the expenditure ceilings set out in the current MFF for the 2020 financial year will roll over (Article 312(4) TFEU).

42 [Proposal for a COUNCIL REGULATION establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 pandemic](#).

43 See for more information on the financial settlement our [Report of 16 September 2020](#).

organisations would be eligible to bid for funding from the relevant EU schemes, and maintain the opportunities for cross-border collaborative projects, especially in the field of scientific research, to which they had access to while the UK was a Member State.

7.8 In its [formal negotiating objectives](#) for the new UK-EU relationship published on 27 February 2020, the Government announced that there were five specific programmes in which British participation will be ‘considered’ under the EU’s next Multiannual Financial Framework for the 2021–27 period:

- [Horizon Europe](#), the EU’s main fund for scientific research;
- the [Euratom programme](#) for research into the civilian application of nuclear energy, which the Government has since confirmed also includes an application to remain part of the [EU’s contribution to ITER](#) (an international research project relating to the use of nuclear fusion as a commercially-viable energy source);
- [Copernicus](#), an earth observation service that is part of the EU space programme;⁴⁴
- the [PEACE PLUS](#) programme, an EU-funded scheme for cross-border cooperation between communities in Northern Ireland and Ireland financed from the European Regional Development Fund;⁴⁵ and
- the [Erasmus+](#) programme, the EU’s student and teacher mobility scheme, for which UK participation would only be considered “on a time-limited basis, provided the terms are in the UK’s interests”.

7.9 We have considered the choice of these programmes (and the decision not to pursue participation in others at this stage),⁴⁶ as well as the wider context of the Government’s efforts to secure continued UK participation in them as part of the broader negotiations on a new relationship with the EU in several Reports in 2020.⁴⁷ We assessed in particular the potential powers of the Court of Justice of the European Union and the EU’s anti-fraud bodies, namely OLAF and the new European Public Prosecutors’ Office, vis-à-vis UK recipients of EU funding. These are issues to which we will return separately if merited by any progress in the negotiations to finalise the terms of formal UK participation in EU programmes.

44 The Government also said it “will consider service access agreements”—i.e. payment for specific services rendered by—for the [EU Space Surveillance and Tracking project](#), a ground-based orbital tracking system designed to track space debris and help protect space assets by preventing collisions, and the [European Geostationary Navigation Overlay Service](#) (EGNOS), which improves the accuracy of satellite navigation systems. The UK’s negotiating objectives do not refer to possible continued participation in Galileo, the EU’s satellite navigation programme.

45 The Government’s position paper states: “The UK also notes its specific ongoing commitment to delivering the PEACE PLUS programme. The UK will deliver the PEACE PLUS programme as part of the UK’s unwavering commitment to uphold the hard-won peace in Northern Ireland. The UK will work with the European Commission and the Irish Government to shape the programme, maintaining the current funding proportions for the future programme.”

46 Although participation in other EU programmes is not currently being sought, this does not preclude the UK from seeking such participation at a later stage. We have inquired with the Government, for example, about potential UK involvement in the EU’s [Health programme](#) and its ‘[InvestEU](#)’ scheme.

47 See in particular our Reports of [1 April 2020](#), [27 May 2020](#) and [9 September 2020](#).

The EU 2021 budget and a potential UK contribution

7.10 In the context of the EU’s draft budget for 2021, the main area of relevance in the future relationship negotiations is the methodology to calculate the UK’s gross financial contribution in return for participation in any EU programmes. Typically, the contribution non-EU countries are required to pay annually for participation in EU schemes is calculated by reference to the EU’s own planned spending on those programmes in that year. As such, the amount the European Parliament and the Council allocate to the schemes in which the UK is seeking participation in the EU budget for 2021 would directly impact its putative financial contribution.

7.11 It is important to emphasise that the talks on the UK’s participation—and the conditions attached—are still on-going. It is not certain at this stage that there will be any formal British involvement in schemes like ‘Horizon Europe’ from 1 January 2021, given the difficulties in the wider negotiations on the new economic and political relationship with the EU. However, a draft legal text prepared by the European Commission in March 2020 shows it intends to build on existing precedent if there is an agreement on UK participation in EU programmes, making UK “association” with specific EU programmes conditional on a yearly financial contribution which would be calculated as follows:⁴⁸

- for every EU programme in which the UK participates, it would pay an annual “operational contribution”. The amount would be calculated using the established methodology already applied to countries like Switzerland, where the amount to be paid is determined by multiplying the EU’s own annual budget in commitment appropriations⁴⁹ for a particular EU programme by a “contribution key”, which is derived from the partner country’s relative economic size compared to the EU’s;
- the Commission’s proposal is to calculate the UK contribution key by taking its GDP as a percentage of the EU-27’s GDP (approximately 15.5 per cent based on [2019 GDP figures](#) published by the EU statistical office Eurostat).⁵⁰ By way of example, this would mean that for participation in an EU programme with an annual budget of €100 million, the UK would have to pay €15.6 million;⁵¹

48 As noted, the other outstanding issue of note relates to the EU’s insistence on jurisdiction for the Court of Justice (CJEU) in relation to dispute settlement between the European Commission and British funding recipients, and on investigatory powers for the EU’s anti-fraud body OLAF and the new European Public Prosecutor’s Office (EPPO) in the UK.

49 Commitment appropriations are the amount the EU can legally commit to spending for a certain programme in a given financial year. The actual payment obligations that flow from such commitments are often resolved in subsequent years.

50 This is the same methodology for establishing the contribution key for Switzerland’s participation in the EU’s current research programme, ‘Horizon 2020’. However, for Swiss participation in the ITER scheme, its contribution key is calculated as the ratio of its GDP versus the GDP of the EU plus Switzerland. Consequently its contribution to ITER is somewhat lower.

51 An alternative approach is used for Norway and Iceland as members of the European Economic Area. Their contribution key is calculated as the ratio between their GDP and GDP of the EU plus that country combined. This lowers the ratio and therefore the contribution, in the case of the UK yielding a contribution key of approximately 13.5 per cent. The financial implications of this difference in methodology are potentially significant. For example, for ‘Horizon Europe’—the EU’s new research programme in which the UK is interested—the Commission has proposed an annual average budget for the 2021–27 period of €12.4 billion. Depending on how the UK’s contribution key is calculated, that could require a gross annual payment of either €1.93 billion (£1.75 billion) or €1.67 billion (£1.52 billion).

- the UK would also pay a separate, smaller “participation fee” for each EU programme in which it is involved, calculated as a fixed percentage of the operational contribution referred to above. It is not clear if revenue from this fee would go towards the programme to which it relates, or whether it would flow into the general EU budget and therefore also fund unrelated expenditure like the Common Agricultural Policy or the Regional Development Fund. While the percentage is not yet definitively established, we understand the Commission has proposed it should be 7 per cent of the “operational contribution”. It could therefore be financially significant in its own right; and
- lastly, the Commission has also proposed a new “correction mechanism” that would automatically require the UK to pay more into EU-funded programmes in which it participates if the money it receives outstrips its contribution by a—yet to be specified—proportion. Crucially, the Commission proposal does not operate in the other direction, so there would be no refund for the UK if its contribution significantly outstrips its receipts from an EU programme. As proposed, this mechanism is essentially a reversal of the budget rebate the UK enjoyed while a Member State, which functioned to reduce the UK’s net contribution to the EU budget.

7.12 As noted, the precise methodology for the calculation of the UK contribution remains a matter for negotiation.⁵² As such, the cost to the UK taxpayer of participation in EU programmes cannot yet be definitively established. However, it is possible to make an initial estimate of its gross contribution, using the methodology [set out in the European Commission proposal](#). The table below shows the proposed EU budget for the schemes in which the UK is currently seeking participation, both for the overall 2021–27 period, and for 2021 specifically.⁵³ It also contains an estimate for the putative UK operational contribution that these budgetary allocations would yield, if the Commission’s methodology for calculating the annual payments were to be accepted by the Government. These figures are necessarily speculative, because:

- the negotiations on the exact methodology to establish the UK’s contribution are on-going (and it may not, in the end, participate in all the schemes identified by the Government), and these are also tied to the wider discussions on the future UK-EU economic relationship;
- it is also possible the UK may become involved in only part of an EU programme rather than its full range of activities, which would presumably decrease its contribution to that scheme proportionately. In particular, with respect to the student exchange programme Erasmus+, the Government [has said](#) that it will consider “participation in elements [...] on a time-limited basis, provided the terms are in the UK’s interests”.⁵⁴ Conversely, for some parts of the EU’s research

52 The status of the talks on this matter is unclear. On 21 August 2020, EU Chief Negotiator Michel Barnier [referred](#) to “progress” having been made on unspecified “technical issues” relating to UK participation in EU programmes.

53 It is not clear if there will be a separate arrangement for the UK’s participation in the cross-border ‘PEACE’ programme on the island of Ireland, where the UK’s participation flows directly from the commitments it made under the Withdrawal Agreement and which only constitutes a small part of the much larger European Regional Development Fund. We have therefore omitted this programme from the table.

54 Given the impact of COVID-19 on international travel the implementation of the Erasmus+ programme is facing general uncertainty in any event.

programmes that are linked to industrial competitiveness, the EU itself may want to exclude the UK's participation to drive "economic growth" within the European Union;⁵⁵

- it is unclear how much the separate "participation fee" would amount to, which would come on top of the "operational contribution" and be calculated by reference to the latter. We understand the European Commission has suggested a ratio of 7 per cent, which would add a substantial additional sum to the figures in the table;
- any gross UK contribution would need to be offset against receipts from the relevant EU funding schemes to calculate the ultimate net contribution, but such receipts cannot be established in advance; and
- lastly, as noted, decisions on the financial allocations for these programmes from the EU's Multiannual Financial Framework and the 2021 budget are yet to be taken by the European Parliament and Council, so the figures for the basis on which the UK's contribution would be calculated are not yet definitively established. The Member States in the Council, in particular, are [pressing for reductions](#) that would also decrease any UK payments.

⁵⁵ In particular, Article 12(2) of the draft Regulation establishing the Horizon Europe programme would allow the EU to exclude third countries like the UK and Switzerland from "parts of the Programme" where considered necessary to "take into account the objective of driving economic growth in the Union through innovation". This does not apply to EEA-EFTA countries, countries seeking entry into the EU, and countries in the EU's eastern and southern "neighbourhood".

Programme	Proposed multi-annual spending limit for 2021–2027 ⁵⁶	Proposed budget for 2021 ⁵⁷	Putative UK contribution key	Potential gross UK operational contribution (2021–2027) ⁵⁸	Potential gross UK operational contribution (2021)
Horizon Europe	€86.6bn ⁵⁹	€12.3bn	15.5 per cent	€13.4bn (£12.1bn)	€1.91bn (£1.73bn)
Euratom Research & Training	€2.1bn	€266m		€326m (£304m)	€41.5m (£37.5m)
ITER	€5.4bn	€864m		€837m (£757m)	€134m (£121m)
Copernicus	€5.8bn	€707m		€899m (£814m)	€110m (£99m)
Erasmus⁶⁰	€26.4bn	€2.89bn		€4.1bn (£3.7bn)	€448m (£406m)
Total	-	-		-	€19.6bn (£17.7bn)

The proposed correction mechanism

7.13 Given the lack of clarity about the precise financial arrangements for UK participation, if any are agreed, it is similarly too early to consider the impact of the Commission’s proposed “correction mechanism” for the UK taxpayer on the estimates above. However, the nature of this mechanism could have important financial implications. As previously noted, the EU wants to prevent the UK from becoming a significant net beneficiary from its programmes, especially in the area of scientific research where it has historically attracted large amounts of EU funding. The correction mechanism proposed by the European Commission would require the UK to automatically pay more if its receipts outstripped its contributions.

56 The figures for the 2021–2027 period are taken from the [European Commission proposal](#) for the Multiannual Financial Framework, published in May 2018, and expressed in 2018 prices. As noted, these are likely to change as part of an overall budget agreement between the European Parliament and the Member States in the Council.

57 The figures for 2021 are taken from the European Commission’s [statement of estimates](#), as expressed in current prices in June 2020. They refer to commitment appropriations, in other words the amount of funding the EU could commit to spending from this programme in 2021 even if the money is not fully paid out until later years.

58 As noted, we have omitted the Commission’s proposed participation fee, as it is unclear at this stage how this would be calculated (although we understand the Commission would seek an additional 7 per cent of the operational contribution in the form of this fee).

59 The Commission has also proposed a further €13.5bn top-up for Horizon Europe from 2021 to 2024 from the EU Coronavirus Recovery Fund, which is not included here as it is to be considered “external assigned revenue” and not an EU budget contribution, and presumably as such would not be included in the calculation to establish the UK’s contribution.

60 As noted, the Government has said its pursuit of participation in Erasmus+ would be limited to “certain elements”, in which case the UK contribution could be reduced. However, it is not clear at this stage what the specifics of the UK’s request are, or how this would be reflected in the financial mechanism.

7.14 It is also possible the UK would pay more into the EU budget for participation in the aforementioned schemes than it would receive back—a situation which the mechanism proposed by the Commission does not cater for. This issue is likely to be most pressing for EU research funds under “Horizon Europe”, the largest and perhaps the most important scheme in which the Government is seeking participation.

7.15 For example, according to [figures published by the European Commission](#), between January 2014 and September 2020 the UK received €7.01 billion in funding from the EU’s current research programme, Horizon 2020. That amounts to 12.2 per cent of all funding awarded under the scheme to date, making the UK the second largest recipient country after Germany. Over the same period, the UK’s net contribution to the EU budget, as a share of all payments made by Member States, was approximately 12.3 per cent (due to the effect of the UK rebate).⁶¹ As such, with respect to EU research funding from Horizon 2020 over the past seven years, the UK’s contributions and receipts were roughly matched, even if overall the UK was a significant net contributor to the EU budget. However, we note that prior to the 2016 referendum, the UK’s proportion of Horizon 2020 funds was higher, standing at 16 per cent in 2015.⁶² At that stage, the UK could therefore be considered a net beneficiary of EU research funds.

7.16 Under the new arrangement for UK participation in EU programmes, two new dynamics are at play that could upset that balance. First, there is a risk that as a former Member State the UK will be less successful in bidding for EU funding from schemes like Horizon Europe, decreasing its receipts.⁶³ As noted, such a trend was already observed in the UK’s participation rate in research grants from the EU’s current “Horizon 2020” programme following the 2016 referendum which led to the UK’s withdrawal. Secondly, the UK’s proportional budget contribution—calculated by reference to its economic size compared to that of the EU, without the automatic application of the rebate—would increase compared to the arrangements it enjoyed as a Member State. The combined effect could be to make the UK a net contributor, of potentially significant sums, to EU programmes in which the Government is seeking participation.

7.17 In light of this, it is unclear what success the Government has had in redrafting the correction mechanism so that it would also prevent the UK from becoming a significant net contributor to the EU programmes in which it wants to participate; in other words, a new version of the rebate it enjoyed as a Member State. Equally important, the Government has not made clear whether it would refuse to accept an agreement on UK participation if such a change was not made. Any financial contribution should, of course, be set against the wider benefits of participation in EU programmes—for example in terms of the UK’s access to funding and opportunities for cross-border collaborative research. It is imperative, however, that the Government be transparent about the costs and benefits.

61 Office for Budget Responsibility, “UK financing share over the European Union’s 2014–20 Multiannual Financial Framework” (March 2020), table 4.11.

62 Royal Society, “[Brexit is already having a negative impact on UK Science](#)” (accessed 29 September 2020).

63 While a participation agreement should provide some certainty about the UK’s eligibility to receive funding, making researchers in other countries less hesitant to bid jointly for EU research funds with British counterparts, the EU could still suspend the UK’s participation as it did for Switzerland when the latter refused to extend free movement rights to nationals of Croatia when that country joined the EU in 2013.

The Government’s position on the draft EU budget for 2021

7.18 The Chief Secretary to the Treasury (Rt. Hon Steven Barclay MP) submitted an [Explanatory Memorandum](#) on the European Commission’s proposed EU budget for 2021 on 26 August 2020. This document reiterates the position that the Brexit financial settlement does not render the UK liable for new EU spending from 1 January 2021 onwards, and provides no further information on the potential impact of the EU budget for 2021 on the UK if the Government secures participation in certain EU programmes as described above.⁶⁴

Action

7.19 We consider that Parliament should continue to take note of the EU budget for future years in light of particular items of expenditure—such as the €750 billion Coronavirus Recovery Fund—that may be of wider economic or political importance for the UK.

7.20 More specifically, it is clear that—if the Government is successful in securing continued UK participation in various EU funding programmes—the EU’s annual budget cycle will likely remain of direct relevance because it would impact the UK’s financial contribution to those schemes. It is disappointing that the Government is still unable to provide any clarity about the likely costs of such participation, or update Parliament on the state of play in the negotiations on the “correction mechanism” that—as proposed by the European Commission—would operate solely to the benefit of the EU.

7.21 If the UK and EU reach agreement on participation in the EU schemes identified as being of continued relevance to the UK by the Government, we will therefore expect the Treasury to publish further information on the methodology to establish the UK’s contribution, including: the participation fee; the functioning of any correction mechanism; and the estimated financial cost of such participation to the taxpayer. We will consider these matters further in light of any developments in the negotiations between the Government and the EU, and the discussions within the EU itself on its next Multiannual Financial Framework and the annual budget for 2021. We also note that questions remain outstanding about the precise powers and jurisdiction of EU institutions vis-a-vis British recipients of EU funding if the Government concludes such a participation agreement, in particular those of the Court of Justice of the EU, the EU anti-fraud body OLAF and the new European Public Prosecutor’s Office.

7.22 In the meantime, we draw the potential consequences of the EU budget for 2021 for the UK to the attention of the Committee on the Future Relationship with the EU and the Public Accounts Committee and—in light of its relevance to the UK’s future participation in EU research programmes—the Business, Energy and Industrial Strategy Committee and the Science and Technology Committee.

64 The Memorandum states: “The UK is considering a relationship in line with standard non-EU Member State participation. The programmes that the UK is considering participation in are those that could represent a real benefit to British people and industry, provided the UK can secure participation on acceptable terms in the context of the principles set out in the UK’s approach, in particular that it will be a third country relationship, based in precedents, and must respect our autonomy and sovereignty”.

8 Documents not considered to be legally and/or politically important

Foreign and Commonwealth Office

(41478) Draft amending budget No 8 to the general budget for 2020: Increase of payment appropriations for the Emergency Support Instrument to finance the COVID-19 vaccines strategy and for the impact of the Corona Response Investment Initiative Plus.
10302/20
COM(20) 900

(41503) Proposal for a Council Decision concerning the commitment of the funds stemming from reflows under the ACP Investment Facility from operations under the 9th, 10th and 11th European Development Funds, the balances from the 10th EDF or from previous EDFs, and the funds decommitted from projects under the 10th EDF or from previous EDFs.
10538/20
COM(20) 484

(41504) Proposal for a Council Decision concerning the allocation of funds decommitted from projects under the 10th European Development Fund for the purpose of replenishing the African Peace Facility.
10484/20
COM(20) 477

HM Treasury

(41468) Report from the Commission to the European Parliament, the Council and the Court of Auditors on the Management of the Guarantee Fund of the European Fund for Strategic Investments in 2019.
10161/20 +ADD1
COM(20) 385

Home Office

(41469) Report from the Commission to the European Parliament and the Council on the state of play of preparations for the full implementation of the Interoperability Regulations in accordance with Article 78(5) of Regulation (EU) 2019/817 and Article 74(5) of Regulation (EU) 2019/818.
10188/20
COM(20) 428

Department for Transport

(41509) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 168/2013 as regards specific measures on L-category end-of-series vehicles in response to the COVID-19 outbreak.
—
COM(20) 491

(41512) Commission Delegated Regulation (EU) .../... of 6.8.2020 amending Delegated Regulation (EU) 2018/985 as regards its transitional provisions in order to address the impact of the COVID-19 crisis.
10211/20
COM(20) 5273

Annex

Documents drawn to the attention of select committees:

(‘SNC’ indicates that scrutiny (of the document) is not completed; ‘SC’ indicates that scrutiny of the document is completed)

Business, Energy and Industrial Strategy Committee: EU budget 2021: possible financial implications for the UK [Commission Communication (SC)]; Energy and Hydrogen Policy [Commission Communications (SNC)]

Environmental Audit Committee: Green finance: the EU’s Sustainable Investment Taxonomy (update) [Proposed Regulation (SNC)]; Energy and Hydrogen Policy [Commission Communications (SNC)]

Committee on the Future Relationship with the European Union: Regional policy post-2020 [Proposed Regulations (SNC)]; EU budget 2021: possible financial implications for the UK [Commission Communication (SNC)]; Enhancing trade in the Euro-Mediterranean region [Proposed series of Council Decisions (SNC)]

Housing, Communities and Local Government Committee: Regional policy post-2020 [Proposed Regulations (SNC)]

International Trade Committee: EU/US mini-tariff deal [Proposed Regulation (SNC)]; Enhancing trade in the Euro-Mediterranean region [Proposed series of Council Decisions (SNC)]

Northern Ireland Affairs Committee: Regional policy post-2020 [Proposed Regulations (SNC)]; EU/US mini-tariff deal [Proposed Regulation (SNC)]; Enhancing trade in the Euro-Mediterranean region [Proposed series of Council Decisions (SNC)]; Energy and Hydrogen Policy [Commission Communications (SNC)]

Public Accounts Committee: EU budget 2021: possible financial implications for the UK [Commission Communication (SC)]

Science and Technology Committee: EU budget 2021: possible financial implications for the UK [Commission Communication (SC)];

Scottish Affairs Committee: Regional policy post-2020 [Proposed Regulations (SNC)]

Transport Committee: COVID-19: Flight vouchers [Commission Recommendation (SNC)]

Treasury Committee: Green finance: the EU’s Sustainable Investment Taxonomy (update) [Proposed Regulation (SNC)]

Welsh Affairs Committee: Regional policy post-2020 [Proposed Regulations (SNC)]

Formal Minutes

Thursday 8 October 2020

After consulting all Members of the Committee, the Chair was satisfied that the Report represented a decision of the majority of the Committee and reported it to the House.

(Order of the House of 24 March 2020).

Standing Order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers—

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at www.parliament.uk.

Current membership

[Sir William Cash MP](#) (*Conservative, Stone*) (Chair)

[Tahir Ali MP](#) (*Labour, Birmingham, Hall Green*)

[Jon Cruddas MP](#) (*Labour, Dagenham and Rainham*)

[Allan Dorans MP](#) (*Scottish National Party, Ayr Carrick and Cumnock*)

[Richard Drax MP](#) (*Conservative, South Dorset*)

[Margaret Ferrier MP](#) (*Scottish National Party, Rutherglen and Hamilton West*)

[Mr Marcus Fysh MP](#) (*Conservative, Yeovil*)

[Mrs Andrea Jenkyns MP](#) (*Conservative, Morley and Outwood*)

[Mr David Jones MP](#) (*Conservative, Clwyd West*)

[Stephen Kinnock MP](#) (*Labour, Aberavon*)

[Mr David Lammy MP](#) (*Labour, Tottenham*)

[Marco Longhi MP](#) (*Conservative, Dudley North*)

[Craig Mackinley MP](#) (*Conservative, South Thanet*)

[Ann Marie Morris MP](#) (*Conservative, Newton Abbot*)

[Charlotte Nichols MP](#) (*Labour, Warrington North*)

[Greg Smith MP](#) (*Conservative, Buckingham*)